

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF PENNSYLVANIA

Mark Charles Thomas,	:	No. 18-03250-JJT
Debtor.	:	
	:	Chapter 13
U.S. Bank Trust National Association, as	:	
Trustee of the PRP II PALS LLC,	:	Hearing Date: 2/21/19 at 9:30 a.m.
Movant	:	
	:	Response Date: 1/17/19
vs.	:	
	:	
Mark Charles Thomas	:	
Theresa A. Thomas, Co-Debtor	:	
Charles J. DeHart, III, Trustee,	:	
Respondents.	:	

MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND FOR CO-DEBTOR RELIEF

U.S. Bank National Trust Association, as Trustee of the PRP II PALS LLC, Movant/ Creditor, hereinafter referred to as “the Bank,” by and through its attorney, Tucker Arensberg, P.C., moves this Court for an Order granting relief from stay and for co-debtor relief provided by 11 U.S.C. § 362, stating as follows:

1. On August 2, 2018, Mark Charles Thomas (the “Debtor”) filed his voluntary petition for relief under chapter 13 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the “Bankruptcy Code”) in the United States Bankruptcy Court for the Middle District of Pennsylvania (the “Bankruptcy Court”) at bankruptcy case number 18-03250-JJT (the “Case”).

2. This matter is a core proceeding and this Bankruptcy Court has jurisdiction pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Movant seeks relief pursuant to 11 U.S.C. § 362(d) and FRBP 4001 and 9014.

3. On or about May 16, 2000, the Debtor and Theresa A. Thomas (the “Co-Debtor”) borrowed \$72,000.00 from Eagle National Bank pursuant to the terms of a Note (the “Note”). A true and correct copy of the Note is attached as Exhibit “A”.

4. As security for repayment of said obligation, the Debtor and Co-Debtor executed a Mortgage in favor of Eagle National Bank with respect to certain real property located at 294 N. Pennsylvania Avenue, Wilkes Barre, PA 18702 (the “Property”) and recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, on May 22, 2000, at Instrument Number 5323893.

A true and correct copy of the Mortgage, along with the Assignments of Mortgage transferring the lien to Movant, are attached as Exhibit "B".

5. According to the Debtor's Schedule A, the fair market value of the Property is approximately \$53,333.00. There is also a lien with the Portnoff Law Associates LTD in the amount of \$824.26, per the Proof of Claim filed on September 28, 2018 at Claim No. 5-1, and a lien with the Wyoming Valley Sanitary Authority in the amount of \$1,104.33, per the Proof of Claim filed on August 20, 2018 at Claim No. 2-1.

6. The payoff amount good through December 21, 2018, is \$164,400. Payments have not been made for the months of August 26, 2018 through December 26, 2018, and the total past due as of that date is \$4,806.00.

7. Movant believes and therefore avers that there is good cause to grant relief from the automatic stay, including lack of adequate protection for Movant's secured claim in the indebtedness based on the following:

A. No payments have been made for the months of August 26, 2018 through December 26, 2018, so there are no adequate protection, and there is no equity as the total of the liens on the Property exceed its value;

B. the Property has no value to the Estate or, at best, only inconsequential value to the Estate;

WHEREFORE, U.S. Bank Trust National Association, as Trustee PRP II PALS LLC prays that an Order be entered granting Movant debtor relief from the automatic stay pursuant to 11 U.S.C. Section 362 and Co-Debtor Stay for the purposes of its remedies for collection against the Debtor and Co-Debtor, including repossession and sale of the Property more particularly described as being 294 N. Pennsylvania Avenue, Wilkes Barre, PA 18702, and that it be granted such additional and further relief as is just.

DATE: 1/3/19

Respectfully submitted,

By: /s/ Jillian Nolan Snider

Jillian Nolan Snider, Esquire

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